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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,286	07/24/2003	William Thomas Rogers		2379

7590 03/19/2008
William Rogers
3614 Hunters Circle
San Antonio, TX 78230

EXAMINER

LACYK, JOHN P

ART UNIT	PAPER NUMBER
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3735

MAIL DATE	DELIVERY MODE
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03/19/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of Abandonment	Application No.	Applicant(s)	
	10/627,286	ROGERS, WILLIAM THOMAS	
	Examiner	Art Unit	
	John P. Lacyk	3735	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 23 March 2006.
 - (a) ☒ A reply was received on 23 January 2007 (with a Certificate of Mailing or Transmission dated N/A), which is after the expiration of the period for reply (including a total extension of time of 0 month(s)) which expired on 23 June 2006.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

See Continuation Sheet

/John P Lacyk/
Primary Examiner, Art Unit 3735

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

Item 7 - Other reasons for holding abandonment: On 23 March 2006, the Office mailed a non-final Office action, which set a three month shortened statutory period to reply. There is no petition for any extension of time under 37 CFR 1.136.

A review of the record indicates that a "Complete Corrected 'Claims' packet" in response to the Office action of 23 March 2006 was sent via Certified Priority Mail on 24 April 2006. See the miscellaneous incoming letter of 24 April 2006. Another miscellaneous incoming letter dated 23 September 2006 suggests that a response was filed. However, according to the record, there is no evidence of any amendment or other formal response being received by the Office prior to 23 January 2007.

An Amendment is included in the application file indexed with the date 23 January 2007. This amendment does not bear a certificate of mailing or transmission in accordance with 37 CFR 1.8; a mailroom stamp documenting the date of receipt by the Office; or any other documentary evidence that the Amendment was timely filed. Therefore, the amendment of 23 January 2007 is considered untimely.

The application became abandoned on 24 June 2006, for failure to submit a timely response to the non-final Office action.

Applicant is advised to file a Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 or, alternatively, a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application.

Any such petition to withdraw the holding of abandonment must contain a statement of the facts involved, the point or points to be reviewed, and the action requested.

As applicant is a pro-se applicant, the Office understands that applicant may not keep a formal docket record system for his correspondence. Nevertheless, applicant must provide some sort of factual showing explaining the manner in which the response to the non-final Office action of 23 March 2006 was mailed to the USPTO. Applicant should include any available documentary evidence of the content of the response allegedly mailed 24 April 2006; records of deposit with or delivery by the U.S. Postal Service; and records of receipt by the USPTO.

Applicant is encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).
- (2) The petition fee as set forth in 37 CFR 1.17(m), \$770.00 for a small entity or \$1,540.00 for other than a small entity;
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application is available at <http://www.uspto.gov/web/forms/index.html>.

Applicant may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, Applicant is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX:

(571) 273-8300
Attn: Office of Petitions

By hand:

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314.

